

Administrative Closure

Healthcare Inspection- Misuse of Intergovernmental Personnel Act (IPA) Appointments to Pay Administrative Salaries at the East Bay Institute for Research and Education (EBIRE), Martinez, California

MCI# 2010-02852-HI-0306

Purpose

The Department of Veterans Affairs (VA) Office of Inspector General (OIG) Office of Healthcare Inspections (OHI) conducted an inspection to address the allegations that Intergovernmental Personnel Acts (IPAs) were improperly used to pay administrative staff salaries at the East Bay Institute for Research and Education (EBIRE). The purpose of the inspection was to determine whether the allegations had merit.

Background

The EBIRE is a non-profit organization established in 1989, which administers basic and clinical research approved by the Veterans Affairs Northern California Health Care System (VANCHCS). The VANCHCS Director and Associate Chief of Staff for Research and Development (ACOSRD) are members of the board of trustees who oversee the management of EBIRE. Due to decreased grant funding and donations in fiscal year (FY 2009) and 2010, EBIRE experienced financial difficulties. EBIRE's FY 2009 audited financial statements reflected a loss of \$578,000. The organization went through some cost-cutting measures, but there were still insufficient funds. During FY 2009, the Executive Director of EBIRE with the approval of Associate Chief of Staff for Research and Development (ACOSRD) VANCHCS and the Director of Human Resources VANCHCS began funding EBIRE's administrative personnel costs using IPAs. VA policy¹ prohibits the use of IPAs to pay administrative personnel salaries.

The VA Nonprofit Program Office (NPPO) performed a review of EBIRE in June 2010 that highlighted the dismal financial condition of the organization, weak internal management controls and the inappropriate use of IPAs for the executive Director's salary. The NPPO alerted the OIG over concerns of possible embezzlement of funds.

We conducted site visits in June and July 2010 to interview the Executive Director of EBIRE, the Director (VANCHCS), the ACOSRD and other VANCHS and EBIRE management staff. We reviewed reports prepared by the VA's Nonprofit Program Office (NPPO), financial records, personnel files, and VA policies and directives regarding IPA's.

¹ VHA Handbook 5005, dated April 15, 2002, Part I, Chapter 3, Section C, Temporary Assignment of Employees Under the Intergovernmental Personnel Act (IPA).

Our inspection found that there was misuse of IPA's by inappropriately funding administrative personnel salaries. We did not find any evidence of embezzlement of funds, but did reveal several significant internal management control breakdowns. We brought these concerns to the attention of the VANCHCS Director for appropriate action.

Moreover, on July 15, 2010, we found that appropriated medical services funds were illegally transferred to EBIRE. We therefore recommended to the Director that he order an Administrative Investigation Board (AIB) to determine why these funds were not being used for it's intended purpose (appropriated funds are only to be used for the intended purposes stated in the language of the appropriation by Congress and it is illegal to use for other purposes).

On July 28, the Director ordered an AIB to investigate whether IPAs were misused and to determine whether VANCHCS employees lied to the federal auditors. The board did not convene due to conflict of interest with the VANCHCS Director.

On October 22, 2010, the VA Sierra Pacific Network Director signed a charge letter to convene an AIB. This "Board was convened to review the results of a previously constituted AIB (charge letter dated July 28, 2010) and provide appropriate investigation and response, determine whether the Director of VANCHCS was involved in the misuse of appropriated funds and appointments made through the IPAs, and address any systems issues that resulted in a misuse of appropriated funds."

We reviewed the AIB report dated December 17, 2010. The AIB made the following findings of fact, conclusions and recommendations:

Findings of Fact:

1. The AIB corroborated the findings of the first AIB that the VANCHS improperly executed several IPAs.
2. VA and OPM Merit Promotion policies were bypassed for the appointment of an EBIRE administrative employee and scientist.
3. The Associate Chief of Staff of Research and Development (ACOS/R&D), Chief Business Officer (CBO), Chief of Human Resources (CHR), and Administrative Officer for Research and Development(AOR&D) did not have an understanding of or provide appropriate oversight of the IPA process at the VANCHCS.
4. Improperly executed IPAs resulted in the misuse of approximately \$156,000 of appropriated funds.
5. Director of the VANCHCS was ultimately responsible for the misuse of appropriated funds.

The AIB found that there was insufficient evidence that one or more employees lied to federal auditors.

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AIB Conclusions:

The AIB found no evidence that the VANCHCS Director intentionally violated appropriations laws. The Director assumed responsibility and took immediate action to correct this problem. The AIB concluded that the lack of oversight of the IPA process by VANCHCS officials coupled with violations of VA and OPM Merit Promotion policies resulted in the misuse of appropriated funds totaling \$156,000.

AIB Recommendations:

1. Appropriate personnel action should be taken for the failure of (b)(6) (b)(6) (b)(6) and (b)(6) to provide oversight of the IPA process.
2. Appropriate personnel action should be taken against the individuals responsible for circumventing the merit promotion policies.
3. VANCHCS should develop a policy for the appointment, review, approval and payment of IPAs and train clinical chiefs and staff as to appropriate use.
4. (b)(6) to receive additional training in the use of all funds.
5. Ethics training for all staff in Research, Fiscal and Human Resources.
6. VANCHCS should bill EBIRE \$156,000 for the misuse of appropriated medical funds.

The VA Sierra Pacific Network Director concurred with the findings and recommendations.

OHI Conclusions:

Based on our review of the AIB and the concurrence of the VA Sierra Pacific Network Director with the AIB recommendations, we determined that the issues raised with the misuse of appropriated funds were appropriately addressed. We therefore make no recommendations and consider this case closed.

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Approved by: _____

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